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TO RUEHC/SECSTATE WASHDC 7358
INFO RUEHEG/AMEMBASSY CAIRO 0002
RUEHDM/AMEMBASSY DAMASCUS 8253
RUEHLO/AMEMBASSY LONDON 5015
RUEHTV/AMEMBASSY TEL AVIV 5136
RUEHAM/AMEMBASSY AMMAN 8769
RUCPDOC/DEPT OF COMMERCE WASHDC
RUEKJCS/JOINT STAFF WASHDC

UNCLAS JERUSALEM 000135

SENSITIVE
SIPDIS

NEA FOR IPA, PPD, AND SEMEP; JOINT STAFF FOR LTGEN SELVA;
PLEASE PASS TO USAID FOR ANE/MEA:SBORODIN; NSC FOR KUMAR

E.O. 12958: N/A

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SUBJECT: IDF OPENS KEY WEST BANK ROAD TO PALESTINIANS

¶1. (SBU) Summary: The Israel Defense Forces (IDF) opened an important West Bank road southwest of Hebron to Palestinian vehicle traffic on January 15, in compliance with an October 2009 Israeli Supreme Court ruling. The IDF's response to the ruling could have implications for the easing of other Israeli restrictions in the West Bank where the number of affected Palestinians arguably outweighs the justification for restricting movement and access. End Summary.

Closure Affected Thousands of Palestinians

¶2. (SBU) The IDF on January 15 reopened to Palestinian traffic 4.5 kilometers of Route 354 in southwest Hebron between Negohot settlement (population 180) and the illegal outpost of Mitzpe Lachish (population four families) that had been in place since 2001. The closure affected 22 Palestinian villages (about 25,000-30,000 people) that used the route as the main access road to and from Hebron, their socio-economic hub. As a result of the closure, residents were forced to use alternative dirt roads that extended travel time by over an hour and were often impassable during the winter rainy season.

Ruling Based on Proportionality

¶3. (SBU) The Association for Civil Rights in Israel (ACRI) first submitted a petition to the Israeli Supreme Court in 2006 to open Route 354. After a two-year legal battle, the Supreme Court ruled in favor of ACRI in October 2009, calling on the IDF to find alternative means of security for the Israeli settlers and to open the road within three months. According to ACRI, this was the first Supreme Court decision to open a segregated Palestinian road, effectively overriding an Israeli military order to keep the route closed for security reasons.

¶4. (SBU) In its October 2009 ruling, the Israeli Supreme Court did not support ACRI's position that a segregated road system is "discriminatory" and therefore illegal, but rather adopted the argument of proportionality. Supreme Court President Dotti Beinisch stated, "closure of the road was disproportionate, given (that it was) meant to protect 150 (sic) Jews who reside in the area, but affects thousands of Palestinians." An ACRI contact said that while the ruling "improves the lives of tens of thousands of local Palestinians, it is problematic because of what it did not address: the lack of a categorical interdiction on the system of segregation and discrimination that is becoming more

entrenched in the West Bank."

All Eyes on 443

¶5. (SBU) Similarly, the Israeli Supreme Court on December 30 ruled in favor of allowing Palestinians to use Route 443, an Israeli-only, four-lane highway between Jerusalem and Tel Aviv that is used by an estimated 40,000 cars daily. The road, currently closed to Palestinian vehicles, runs through the West Bank, from which it cuts off six major Palestinian villages (about 130,000 people). The Court decided that while the IDF should take necessary security measures to protect Israeli citizens traveling on Route 443, the military should not prevent Palestinians from using the road. The Court has notified IDF Central Command that it has five months (until late May 2010) to implement the court's order. According to the press, the IDF Spokesperson responded that the Central Command has "begun examining the repercussions in order to implement the ruling."

¶6. (SBU) Following the Court's decision to open Route 443, press reported that Israeli activists now have petitioned the IDF to open West Bank roads restricted from use by Israeli vehicles (specifically routes connecting settlements around Nablus and Hebron), and threatened to go to the Supreme Court if the request was not granted.

Comment

¶7. (SBU) Israeli NGOs and Palestinian contacts note that the Israeli justice system has not ruled against the concept of segregated roads. However, the rulings on Routes 354 and 443 could set a precedent where current movement restrictions on Palestinians potentially outweigh the justification for closures)- such as a section of road near Jerusalem that affects more than a million Palestinians, on behalf of 5 Jewish families, as well as Routes 466 (in Ramallah) and 90 (in the Jordan Valley). The IDF's decision in late September to open Route 585 between Jenin and Tulkarem (without a court ruling) was likely carried out at least in part due to arguments that the 400,000 Palestinians affected by the closure overrode the security concerns of 500 settlers.

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